

Licensing Committee

Agenda

Date: Tuesday, 5th May, 2009
Time: 2.30 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

3. **Determination of Interim Steps Pending Review of Premises Licence - White Horse, Pillory Street, Nantwich** (Pages 1 - 22)

To consider conditions that the Licensing Authority has imposed on the Premises Licence as an interim measure, together with representations in relation to these measures.

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CHESHIRE EAST COUNCIL

REPORT TO: Licensing Committee

Date of Meeting: 5th May 2009
Report of: Miss C M Kerr Licensing Officer
Subject/Title: Determination of Interim Steps Pending Review of
Premises Licence – White Horse, Pillory Street, Nantwich

Exempt/Confidential NO

1.0 Report Summary

- 1.1 The report provides details of an application for a summary review of a Premises Licence under section 53A of the Licensing Act 2003 made by Cheshire Police. It outlines conditions that the Licensing Authority has imposed on the Premises Licence as an interim measure, together with representations in relation to these measures received from the Premises Licence holder.

2.0 Recommendations

- 2.1 The Committee is requested to:
- 2.1.1 consider whether the interim steps are necessary for the promotion of the licensing objectives; and
- 2.1.2 determine whether the interim steps should be withdrawn or modified.

3.0 Reasons for Recommendations

- 3.1 The Committee is asked to make the decision within 2.1 above in accordance with section 53B(8) of the Licensing Act 2003.

4.0 Wards Affected

- 4.1 Nantwich Ward

5.0 Local Ward Members

- 5.1 Cllr Brian Dykes, Cllr Andrew Martin and Cllr Arthur Moran

6.0 Policy Implications

- 6.1 The Council has adopted a Statement of Licensing Policy under the Licensing Act 2003 relating to its functions as a licensing authority under the Act.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Section 53A of the Licensing Act 2003 enables the chief officer of Police to submit an application for an expedited review in circumstances where in the opinion of a senior Police officer a premises has been associated with serious crime or disorder.

9.2 Section 53B of the Act provides the licensing authority with the power to impose interim steps in relation to the premises licence. Where representations from the premises licence holder in relation to those interim steps are received the licensing authority must hold a hearing to determine (a) whether the interim steps are necessary to prevent harm to the licensing objectives and (b) whether to withdraw or modify the interim steps taken.

10.0 Risk Management

10.1 The Licensing Committee will hear representations made on behalf of both the Premises Licence holder and the Police, and make a decision on the basis of the evidence presented to it. A full review hearing must take place within twenty-eight days of receipt by the licensing authority of the review application. The Act provides a right of appeal against the decision of the licensing authority in relation to the full review hearing.

11.0 Background and Options

11.1 The White Horse, Pillory Street, Nantwich, formerly owned by the Spirit Group and currently owned by Punch Taverns, applied in 2005 to convert their existing Public Entertainment Licence to a Premises Licence.

11.2 Following objections from residents in the vicinity to the application, the then Licensing & Regulatory Sub-Committee resolved that a licence be granted to the premises subject to various conditions. A copy of the Premises Licence is attached for information at **Appendix A**.

11.3 On Saturday 25th April 2009, a disturbance broke out at the premises. The Police have advised that this disturbance involved individuals known by the police to be banned from Nantwich public houses under "Pubwatch," excessively drunk individuals, and youths under the age of 18 years of age who had been drinking.

- 11.4 Due to the serious nature of the disorder, the Police Licensing Officer served on the Licensing Authority an application under section 53A of the Licensing Act 2003, requesting the summary review of the premises. The application outlined conditions that the Police recommended should be imposed on the Premises Licence as interim steps in order to prevent a similar reoccurrence. A copy of the review application and certificate are attached at **Appendix B**.
- 11.5 On 29th April 2009, the Licensing Committee determined to impose the conditions set out within the decision attached at **Appendix C** as interim steps.
- 11.6 Under Section 53B (6) of the Licensing Act 2003, the Premises Licence holder may make representation in relation to any interim steps which are imposed. Following the decision of the Licensing Committee, representations have been received from the Premises Licence holder. The representations are attached for information at **Appendix D**.
- 11.7 In making its decision the Licensing Committee must have regard to the certificate that accompanied the application, any representations made by the Police (a copy of the representations from the Police are attached as **Appendix E**) and any representations made by the holder of the Premises Licence.

12.0 Overview of Year One and Term One Issues

12.1 Not applicable

13.0 Access to Information

There are no background papers associated with this report.

Name: Miss C Kerr

Designation: Licensing Officer

Tel No: (01270) 537124

Email: carole.kerr@cheshireeast.gov.uk

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Part A

PREMISES LICENCE**Crewe and Nantwich Borough Council**

Premises licence number	313
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Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

White Horse
22 Pillory Street

Post town	Nantwich	Post code	CW5 5BD
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Telephone number	01270 624801
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Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Supply of alcohol
Provision of regulated entertainment
Provision of late-night refreshment

The times the licence authorises the carrying out of licensable activities

Monday)	Please see attached tables
Tuesday)	
Wednesday)	
Thursday)	
Friday)	
Saturday)	
Sunday)	

The opening hours of the premises

Monday	09:00	to	02:00
Tuesday	09:00	to	02:00
Wednesday	09:00	to	02:00
Thursday	09:00	to	02:00
Friday	09:00	to	02:00
Saturday	09:00	to	02:00
Sunday	09:00	to	02:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and off

Part 2

Name, (registered) address, telephone number and email (where relevant) of the holder of the premises licence

**Punch Taverns
Jubilee House
Second Avenue
Burton Upon Trent
DE14 2WF**

Tel: 01283 501600

Registered number of holder, for example company number, charity number (where applicable)

05266811

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

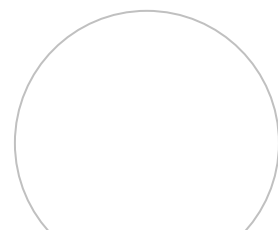
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

**Personal licence number 05-11-350
Issued by the Borough of Crewe and Nantwich**

Issued by:

Executive Director
Environment & Development
Crewe and Nantwich Borough Council
Municipal Buildings
Earle Street
Crewe CW1 2BJ

.....
18th March 2009



The times the licence authorises the carrying out of licensable activities

Recorded music, live music, karaoke and facilities for dancing - all indoors			
Monday	10:00	to	01:00
Tuesday	10:00	to	01:00
Wednesday	10:00	to	01:00
Thursday	10:00	to	01:00
Friday	10:00	to	01:00
Saturday	10:00	to	01:00
Sunday	10:00	to	01:00

Late night refreshment – indoors			
Monday	23:00	to	02:00
Tuesday	23:00	to	02:00
Wednesday	23:00	to	02:00
Thursday	23:00	to	02:00
Friday	23:00	to	02:00
Saturday	23:00	to	02:00
Sunday	23:00	to	02:00

Sale of alcohol			
Monday	10:00	to	01:00
Tuesday	10:00	to	01:00
Wednesday	10:00	to	01:00
Thursday	10:00	to	01:00
Friday	10:00	to	01:00
Saturday	10:00	to	01:00
Sunday	10:00	to	01:00

Licensable activities and opening times are extended by one hour on the following days or dates:

On Bank Holiday week ends (ie, Friday, Saturday, Sunday and Monday) and on Maunday Thursday and on Christmas Eve.

On 1st March, 17th March, 23rd April and 30th November – subject to the giving of 7 days notice and the agreement of the police.

On occasions of local national or international significance or for charitable events (but not more than 10 per year) – subject to the giving of 7 days notice and the agreement of the police.

Annex 1 - Mandatory conditions

1. No supply of alcohol may be made under the Premises licence:
 - At a time when there is no Designated Premises Supervisor in respect of the Premises licence, or
 - At a time when the Designated Premises Supervisor does not hold a Personal licence, or his/her Personal licence is suspended.
2. Every supply of alcohol under the Premises licence must be made or authorised by a person who holds a Personal licence.

Annex 2 - Conditions consistent with Operating Schedule

1. Disc jockeys, if used, will ask customers to leave quietly.
2. All instances of crime and disorder will be reported to the police and kept in an incident log book.
3. Free drinking water will be available at all times.
4. Additional patrols will take place by members of staff, internally and externally, to limit any noise pollution when entertainment is taking place.
5. Notices will be displayed asking customers to respect the neighbours when leaving the premises.
6. When children are allowed upon the premises, any entertainment offered will be suitable for young persons.
7. Children must be supervised by an accompanying adult at all times.
8. A recognised Proof of Age policy will be enforced.

Annex 3 - Conditions attached after a hearing by the licensing authority

1. No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.
2. Refuse such as bottles shall be disposed of from the premises at a time (ie, between 8.00 hours and 20.00 hours) when it is not likely to cause a disturbance to residents in the vicinity of the premises.
3. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency.
4. The beer garden/out door drinking area shall be closed to customers by 23.30 hours.
5. The windows and rear door of the premises shall not be kept or held in an open position after 20.00 hours each evening.
6. The number of occasions of significance and charitable events for which the extension of one hour beyond normal licensing hours is granted shall be limited to 10 (ten) per year.
7. Regulated entertainment shall not be provided in the beer garden/out door drinking area/car park except during the currency of the annual Nantwich Jazz Festival and Nantwich Folk Festival.

CONDITION ATTACHED BY MAGISTRATES FOLLOWING APPEAL

1. The Beer Garden/Outdoor Drinking area shall be closed at 23:30 hours except for the purpose of the designated smoking area as shown on the attached plan. No more than twenty people may use the area at any one time. The condition is subject to there first being installed, a double door entry system. The appellant must submit the plan for agreement to the licensing authority clearly showing where the designated area is to be . This is to be the area closest to the licensed premises.

The Beer Garden/ Outdoor Drinking area may not be used after 23:00 hours for the purpose of smoking until the double door entry system has been installed.

Annex 4 – Plans

See attached.

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FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Licensing Authority
 Cheshire East Borough Council
 Municipal Building,
 Earle Street
 Crewe

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I David George Smethurst [on behalf of] the chief officer of police for the Cheshire police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**White Horse
 22 Pillory Street**

Post town: Nantwich

Post code (if known): **CW5 5BD**

2. Premises licence details:

Name of premises licence holder (if known): Punch Taverns

Number of premises licence holder (if known): 313

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read

guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm) ☒

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

Just before midnight on Saturday 25th April 2009 a disturbance broke out at the White Horse, 22 Pillory Street, Nantwich and police officers attended. They found approximately 100 people at the premises, several excessively drunk, a number of people in the pub who the officers knew to be banned from Nantwich pubs by Pubwatch, several youths known to be under 18 years of age who had been drinking - two of whom ended up being arrested - and far from the arrival of police officers being the catalyst for people dispersing they ended up fighting with a group in order to regain control of the situation. The management and staff failed to grasp the seriousness of what was taking place and did not manage closing the premises effectively. This was a serious incident of disorder and the officers who attended were seriously concerned both for their own safety and for the safety of members of the public caught up in what occurred.

Additional interim conditions are necessary to prevent a reoccurrence and these are:

1. A condition requiring a minimum age for people to enter the White Horse of 21 years of age.
2. A condition requiring the proof of age scheme 'Challenge 25' to be operated for all sales of alcohol.
3. A condition that the Designated Premises Supervisor regularly attend Pubwatch meetings and ensures that people subject of Pubwatch bans are excluded from the premises.
4. A condition that a personal licence holder be present in the licensed area of the premises at all times that they are open to the public.
5. A condition that a minimum of two SIA registered door supervisors be on duty at the premises every Friday and Saturday from 8pm until the premises close to the public.

There are further measures which the premises can put in place, in the longer term, to address some of the issues and these will be dealt with at the full review, which must of course follow this application in due course

Signature of applicant:
Date: 27/04/09
Capacity: Licensing Officer

Contact details for matters concerning this application:

Address: David Smethurst
Licensing Officer
Sandbach Police Office,
Middlewich Road,
Sandbach
CW11 1HU

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Cheshire Constabulary

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with ~~serious crime~~ / serious disorder / ~~both serious crime and serious disorder~~¹.

*Premises*²:

White Horse
22 Pillory Street
Nantwich
CW5 5BD

Premises licence number (if known): 313

Name of premises supervisor (if known): Cheryl Christine Appleyard

I am a Superintendent ³ in the Cheshire Constabulary police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

Late in the evening of Saturday 25th April 2009 an incident of serious disorder took place at the White Horse, 22 Pillory Street, Nantwich. The management of the premises have been previously advised about the neccessity to ensure people subject of Pubwatch bans are kept out of Nantwich pubs and that the proof of age scheme 'Challenge 21' is rigorously enforced. Yet several people subject to Pubwatch bans were present at the premises when disorder broke out, several youths known to be under 18 years of age were also present on the premises, some having clearly consumed alcohol, and two 17 year olds were in fact arrested. The management and staff completely failed to deal appropriately with the events which occurred and additional interim conditions are required to prevent a reoccurrence.

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

Decision of Licensing Authority – Interim Steps pending review (section 53B Licensing Act 2003)

The Licensing Authority has received an application from the Police for a review of the premises licence relating to the White Horse, 22 Pillory Street, Nantwich under section 53A of the Licensing Act 2003 on the basis of serious disorder.

The Licensing Committee has considered whether it is necessary to take interim steps in relation to the premises and has considered the interim steps suggested by the Police within the review application.

The Committee has determined to impose the following conditions as an interim step;

- 1. That no persons under the age of 21 shall be permitted to enter the premises.**

This condition is imposed with immediate effect.

- 2. That a 'Challenge 25' proof of age scheme shall be in operation in relation to all sales of alcohol**

This condition is imposed with effect from 1 May 2009

These conditions 1 & 2 have been imposed on the basis of evidence of sales to underage persons and also evidence that staff have not complied with the requirements of the existing proof of age scheme.

- 3. That the Designated Premises Supervisor is required to regularly attend Pub watch meetings and to ensure that people subject of pub watch bans are excluded from the premises.**

This condition is imposed with immediate effect

This condition is imposed on the basis of evidence that individuals responsible for the disorder at the premises were subject to Pubwatch bans.

- 4. That a personal licence holder is required to be on duty at the premises between the hours of 19.00 and 01.00 or until such time as sales of alcohol have ceased.**

This condition is imposed with effect from 1 May 2009

This condition has been imposed on the basis of evidence that sales of alcohol have been made to underage persons and that there has been insufficient control of this licensable activity at the premises.

- 5. That a minimum of two Security Industry Authority door supervisors are on duty at the premises every Friday and Saturday, and any Sunday preceding a Bank Holiday Monday, from 20.00 until the premises closes to the public.**

This condition is imposed with immediate effect

This condition has been imposed as a result of the evidence of lack of control of patrons at the premises and the disorder that resulted therefrom.

Members were mindful that this decision was made on the basis of the evidence before them at the time and that they would approach any further decision of any future hearing with an open mind and on the basis of evidence presented to them at such a hearing.

FORD & WARREN SOLICITORS

Our Ref JGC 27842/107

Hi Carole,
As you will be aware, I act for Punch Taverns Plc in this matter.

Please consider this e-mail as a representation by the Premises Licence Holder pursuant to section 53B (6) of The Licensing Act 2003.

As you will be aware the Premises Licence Holder was not present at the interim hearing that took place yesterday. The Premises Licence Holder only became aware of the interim hearing yesterday.

Concerning the interim steps imposed by the Licensing Committee, the Premises Licence Holder believes the following are unnecessary and/or disproportionate in all the circumstances :

1. Condition 1. "That no persons under the age off 21 shall be permitted to enter the premises."

It is submitted that this condition should be removed.

2. Condition 2. "That a "Challenge 25" proof of age scheme shall be in operation in relation to all sales of alcohol."

It is submitted that this condition should be replaced by a "Challenge 21" proof of age scheme.

Concerning the other interim steps imposed, the Premises Licence Holder, in recognition of the Police's concerns and those of the Licensing Committee are not at this stage seeking to remove them but reserve the right to make submissions at the full review hearing to be held pursuant to section 53C of The Licensing Act 2005 that they should not be imposed as permanent conditions on the premises licence.

You will be aware that the Authority must now hold a hearing within 48 hours to consider this representation. It would be most appreciated if the hearing could take place tomorrow.

I look forward to hearing from you.

Regards.
John G. Coen
for Ford & Warren

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Carole,

I have received the representations from John Coen on behalf of Punch Taverns in relation to the Summary Review application I have made on behalf of the Chief Officer of Police. Please ask the licensing committee to consider the following:

1. I have noted that the licensing committee are being asked to remove the interim condition 'That no persons under the age of 21 shall be permitted to enter the premises'. This was requested by the police in recognition that the premises had potentially undermined the licensing objective of protecting children from harm and was asked for to try and ensure the premises didn't allow inappropriate access to alcohol by young people. However I now accept that such a condition may have unintended consequences such as preventing families from dining there at lunchtimes or preventing employees under the age of 21 from entering their place of work. This was never the police intention and whilst it is of course a matter for the committee I would not oppose such an application from Punch Taverns.
2. However having acceded to the previous request to remove the condition preventing access to people under the age of 21 I think it even more important that robust measures are in place to make sure the ages of young people are being properly checked at these premises. I therefore see the interim condition requiring the proof of age scheme 'Challenge 25' to be operated for all sales of alcohol at these premises nothing more than an entirely appropriate, necessary and proportionate response to the events of the night of the 25th April 2009.

Please advise me of the time, date and venue when the committee will consider Punch Taverns' representation and if they are to allow any representation to be made in person.

kindest regards

David Smethurst MIoL
Police Licensing Officer

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